

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Lifeline and Link-Up

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WC Docket No. 03-109

**COMMENTS OF THE UNITED STATES CONFERENCE OF CATHOLIC BISHOPS,
ALLIANCE FOR COMMUNITY MEDIA, APPALACHIAN PEOPLE'S ACTION
COALITION, CENTER FOR DIGITAL DEMOCRACY, CONSUMER ACTION,
CONSUMER FEDERAL OF AMERICA, EDGEMONT NEIGHBORHOOD COALITION
AND MIGRANT LEGAL ACTION PROGRAM**

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SUMMARY

The Lifeline and Link-Up programs (collectively, “Lifeline”) have proven to be effective in increasing and maintaining telephone subscribership among low-income consumers in the U.S. Telephone subscribership among poor Americans, however, still lags behind the rest of the population with only 85 percent of low-income households having residential telephones. By modifying the Lifeline program with expanded eligibility criteria, simplified enrollment procedures, and meaningful outreach programs to reach potential subscribers, the Commission can improve the effectiveness of Lifeline and further the Communications Act’s twin goals of affordability and increased subscribership.

Specifically, USCCB *et al.* urge the Commission to modify its Lifeline rules and adopt an income-based eligibility criterion set at 150% of the Federal Poverty Guidelines (“FPG”). This allows a greater number of low-income households to be eligible for Lifeline and provides a straightforward standard based on income that is easy to administer. To maximize the benefits of an income-based eligibility criterion, it should apply to all states, not just those without a mandated Lifeline program. The Commission should also expand the list of default federal eligibility criteria programs list to include Head Start.

To simplify enrollment for consumers and carriers, the Commission should allow self-certification of income-based eligibility and encourage states to adopt an automatic enrollment system that allows low-income individuals to automatically enroll in Lifeline/Link-Up following enrollment in a qualifying public assistance program.

Moreover, requiring states to have specific outreach efforts that target low-income individuals who are likely to qualify for Lifeline would increase enrollment and overall telephone subscribership. To reach Lifeline-eligible customers who have lost service due to non-

payment of toll charges, states should be encouraged to adopt rules requiring carriers to offer Lifeline to those with past-due long-distance charges.

TABLE OF CONTENTS

SUMMARY	ii
I. TO INCREASE LIFELINE ENROLLMENT, THE COMMISSION SHOULD EXPAND ELIGIBILITY CRITERIA TO INLCUDE INCOME-BASED CRITERION, ADDITIONAL PROGRAMS, AND ADOPT SIMPLIFIED ENROLLMENT MECHANISMS	3
A. The Commission Should Adopt Income-Based Eligibility Set at 150% of the FPG to More Accurately Reflect the Current State Requirements	3
B. The Income-Based Eligibility Criterion Should Apply to All States, Not Just States Without Their Own Programs	6
C. The Commission Should Adopt Self-Certification to Promote Administrative Ease and Efficiency.....	7
D. The Commission Should Expand the List of Default Federal Eligibility Criteria Programs	8
E. The Commission Should Adopt the Joint Board’s Recommendation to Encourage Automatic Enrollment	9
II. THE COMMISSION SHOULD REQUIRE MINIMUM OUTREACH REQUIREMENTS TO INCREASE PARTICIPATION IN LIFELINE.....	10
III. THE COMMISSION SHOULD ENCOURAGE STATES TO ADOPT RULES THAT REQUIRE CARRIERS TO OFFER LIFELINE TO CUSTOMERS WITH PAST-DUE BALANCES	11
CONCLUSION.....	13

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The United States Conference of Catholic Bishops (“USCCB”), Alliance for Community Media, Appalachian People’s Action Coalition, Center for Digital Democracy, Consumer Action, Consumer Federal of America, Edgemont Neighborhood Coalition and the Migrant Legal Action Program (“USCCB *et al.*”), through undersigned counsel, hereby submit the following comments, pursuant to the request of the Federal Communication Commission (“Commission”) for comments in response to the Federal-State Joint Board on Universal Service’s (“Joint Board”) recommendation regarding the federal Lifeline and Link-Up programs (collectively, “Lifeline”).

Lifeline was adopted prior to passage of the 1996 Act as one of several universal service support mechanisms.¹ In December 2000, the Commission asked the Joint Board to review Lifeline and Link Up services.² The Joint Board, in response to the Commission’s request, sought comment in October 2001 on Lifeline eligibility criteria; application and verification

¹ *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8952-53 (1997).

² *Federal-State Joint Board on Universal Service*, Referral Order, 15 FCC Rcd 25257 (2000).

measures for customers enrolling in the programs; and whether more extensive consumer education and outreach efforts are necessary to increase participation in the Lifeline program.³

The Joint Board issued its decision March 27, 2003⁴ and recommended that the Commission expand the current program-based default federal Lifeline eligibility to include an income-based standard of 135% of the FPG and add the Temporary Assistance to Needy Families and the National School Lunch programs as program-based federal default criteria.⁵ The Joint Board also recommended that consumers be required to present documentation of income eligibility prior to being enrolled in the program under the income-based standard.⁶ Further, states should be encouraged to adopt an automatic enrollment system that allows low-income individuals to automatically enroll in Lifeline/Link-Up following enrollment in a qualifying public assistance program.⁷ The Joint Board also recommended that the Commission provide outreach guidelines to states and carriers and listed specific guidelines that the Commission could encourage states to adopt.⁸ Finally, the Joint Board recommended that the Commission encourage states to implement rules that require carriers to offer Lifeline service to customers who may have previously been disconnected for non-payment of toll charges.⁹

USCCB *et al.* generally support the Joint Board's recommendations. The goal of increasing subscribership in the Lifeline program could be more successfully attained, however, if the Commission took additional measures beyond the recommendations of the Joint Board.

³ *Federal-State Joint Board on Universal Service Seeks Comment on Review of Lifeline and Link-Up Service for All Low-Income Consumers*, Public Notice, 16 FCC Rcd 18407 (2001).

⁴ *Federal-State Joint Board on Universal Service*, Recommended Decision, 18 FCC Rcd 6589 (2003) ("Recommended Decision").

⁵ *Id.* at ¶10.

⁶ *Id.* at ¶34.

⁷ *Id.* at ¶38.

⁸ *Id.* at ¶¶50-56.

⁹ *Id.* at ¶59.

I. TO INCREASE LIFELINE ENROLLMENT, THE COMMISSION SHOULD EXPAND ELIGIBILITY CRITERIA TO INCLUDE INCOME-BASED CRITERION, ADDITIONAL PROGRAMS, AND ADOPT SIMPLIFIED ENROLLMENT MECHANISMS

We agree with the Joint Board's recommendation that the current eligibility criteria for Lifeline programs should be expanded to include a qualification based solely upon household income, although USCCB *et al.* believe that a 150% poverty level criterion is a better standard.¹⁰ Furthermore, the income-based eligibility criterion should apply to all states, not just those that do not mandate their own Lifeline program. We also agree that the Commission should include more public assistance programs to the list of federal program eligibility criteria, including Head Start. Further, we believe that the Joint Board is correct in recommending that the Commission should encourage states to adopt automatic Lifeline enrollment. USCCB *et al.*, however, disagree with the Joint Board's recommendation against self-certification for income-based eligibility.

A. The Commission Should Adopt Income-Based Eligibility Set at 150% of the FPG to More Accurately Reflect the Current State Requirements

A staff analysis predicted that the adoption of income-based eligibility would mean that states would see "a significant increase in the number of low-income households that take Lifeline."¹¹ Nationwide, Lifeline participation would increase between 928,000 to 1,090,000 if all states adopted the Joint Board's recommended proposal at 135% of the FPG.¹² Not only would current low-income telephone subscribers be more likely to retain their telephone service

¹⁰ See *infra* I.A.

¹¹ Craig Stroup, *Quantifying the Effects of Adding an Income Criterion to the Lifeline Eligibility Criteria*, Lifeline Staff Analysis, *Federal-State Joint Board on Universal Service*, Recommended Decision, 18 FCC Rcd 6589, app. F, p. 10 (2003) ("Staff Analysis").

¹² *Id.*

with Lifeline assistance, the staff analysis predicted that 259,000 additional households would acquire telephone service.¹³

Although the Joint Board recommended that the income-based eligibility be set at 135% of the FPG, it asked that the Commission seek additional comment on the exact income-based standard.¹⁴ In their comments, USSCB *et al.* suggested that eligibility be set at 150% of the FPG. We continue to believe that 150% is the better approach.

By using the 150% FPG standard, the income-based eligibility criterion approximates the highest level of income at which a person is eligible for department of social welfare programs.¹⁵ There would be little reason to set the income-based eligibility for Lifeline at a more restrictive level than the standards for programs whose participation also determines Lifeline membership. In fact, more than 30 states either have a 150% of the FPG eligibility standard or allow Lifeline participation based on membership in a program with an income-based requirement of at least 150% of the FPG.¹⁶

The federal default criteria as well as several states permit Lifeline eligibility based on participation in the Low Income Energy Assistance Program (“LIHEAP”).¹⁷ While the state eligibility standards vary for LIHEAP, 24 states and the District of Columbia allow participation

¹³ *Id.*

¹⁴ Recommended Decision at ¶ 17.

¹⁵ Vermont set its income-based level for its Lifeline program at 150% of the FPG based on the fact that it represented the lowest bar to entry into social welfare programs. Vermont Department of Public Service, Vermont Department of Public Service Biennial Report, July 1, 1998-June 30, 2000 at 8 (2001).

¹⁶ In addition to the states that have an income-based standard set at the 150% of the FPG level, several states have LIHEAP eligibility at or exceeding the 150% poverty level criterion.

¹⁷ Based on data from the Universal Service Administrative Company (“USAC”) web site. Available at http://www.universalservice.org/li/consumers/lifeline_support.asp.

in LIHEAP from residents having incomes of 150% of the FPG or more.¹⁸ Many states have LIHEAP eligibility standards above this range. Massachusetts, for example, allows customers to participate with incomes at 200% of the FPG. Moreover, six states calculate their income-based requirement on a percentage of state median income, allowing residents with incomes well above the 150% of the FPG threshold to participate.¹⁹ In all, three states have LIHEAP eligibility standards above 150% of the FPG and six states determine eligibility based on state medium income, effectively placing eligibility higher than the 150% poverty level criterion.²⁰

By instituting an income-based criterion at 150% of the FPG, the Commission is simplifying an eligibility standard that technically exists in most states²¹ and puts Lifeline in parity with other low-income programs. It ensures that Lifeline income eligibility is comparable with other aid programs that serve low-income consumers.

The Joint Board recommends 135% of the FPG as “an appropriate balance” and noted that many federal welfare programs base eligibility on an income-based criterion ranging between 125% and 150% of the FPG. Since nine states technically have Lifeline eligibility standards that are closer to 200% of the FPG or above, however, the Lifeline median is closer to a 150% poverty level criterion.

¹⁸ Based on data from the U.S. Department of Health and Human Services web site. Available at <http://www.ncat.org/liheap/sp.htm>.

¹⁹ For example, a family of four in Rhode Island with an income of \$41,051 can participate in LIHEAP. This is 223% of the FPG. New York allows a family of four with 210% of the FPG to participate in LIHEAP, and, consequently, to participate in Lifeline.

²⁰ Massachusetts, 200% of the FPG; New Jersey, 175% of the FPG; South Dakota, 160% of the FPG; Minnesota, 50% of the state median income; New Hampshire, 47% of the state median income; New York, 60% of the state median income; North Dakota, 60% of the state median income; Oregon, 60% of the state median income; and Rhode Island, 60% of the state median income.

²¹ Besides the states with LIHEAP eligibility exceeding the 150% poverty level criterion, seven states already have a separate income-based standard set at the 150% of the FPG level. These states, with at least one carrier with an income-based eligibility requirement set at the 150% of FPG level, are: California, Kansas, Michigan, Nebraska, Nevada, Pennsylvania, and Vermont.

Finally, while the staff analysis was based on a 135% poverty level criterion, raising the eligible income level to 150% of the FPG would generate even greater subscribership increases than the study predicted. Further, the benefits of increased Lifeline enrollment and new telephone subscribership would outweigh the small burden this would place on the universal service fund. The staff analysis found that the additional federal expenditures in 2004 of a 135% poverty level criterion administered in all states would be between \$105 and \$123 million.²² This is approximately a 2% increase in the overall size of the universal fund.²³ Raising the poverty level standard to 150% should not prohibitively affect the universal service fund, especially since it would bring phone service to many new households and insure that others can maintain their telephone line.

B. The Income-Based Eligibility Criterion Should Apply to All States, Not Just States Without Their Own Programs

While adding an income-based eligibility component to Lifeline eligibility would increase subscribership, it will be much more effective if it is adopted by all states. The Joint Board recommended that its proposed income-based eligibility criterion should apply only to states that have not mandated their own Lifeline program. USCCB *et al.*, however, contend that any poverty level criterion should apply to all states to reach a greater number of low-income individuals.²⁴

²² Staff Analysis at 2.

²³ This is predicted based on the Universal Service Administration Company third quarter 2003 projections. *Proposed Third Quarter 2003 Universal Service Contribution Factor*, Public Notice, CC Docket No. 96-45 (rel. June 6, 2003).

²⁴ USCCB *et al.* Comments at 4.

Currently, there are only about a dozen states that do not provide additional state support to the federal Lifeline service and are thus subject to the federal default eligibility guidelines.²⁵ As a consequence, these states would be the only states required to have income-based eligibility criteria and low-income residents in many parts of the country would not reap the benefits of having an income-based Lifeline eligibility program.

C. The Commission Should Adopt Self-Certification to Promote Administrative Ease and Efficiency

While a national income-based eligibility criterion would generate increased Lifeline subscribership, self-certification of eligibility would work in tandem to simplify enrollment and promote administrative efficiency.

The Joint Board does not recommend self-certification for an income-based criterion due to the greater potential for fraud and abuse and recommends requiring that all states adopt certification procedures that involve income documentation. Concerns of consumer misrepresentation, however, can be addressed through participants' consent to audits performed by the state or telecommunications carrier.

California currently uses self-certification to verify the initial eligibility of potential Lifeline customers and re-certify their eligibility each year.²⁶ This program has not only helped California maintain the most effective Lifeline program in the country,²⁷ the state says it keeps administrative costs down.²⁸

²⁵ Arkansas, Delaware, Hawaii, Indiana, Iowa, Louisiana, Minnesota, Missouri, New Hampshire, New Jersey, Ohio, and South Dakota do not provide additional monthly Lifeline support. See *Universal Service Monitoring Report*, CC Docket No. 98-292, tbl. 2.1 (2002) available at http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/Monitor/mrs02-0.pdf.

²⁶ USCCB *et al.* Comments at 14.

²⁷ California has the best ratio of people participating in the Lifeline program compared to the number of people living under the federal poverty guidelines in the country according to

Under California's program, Lifeline customers sending in a self-certification form are made aware that the state and the utility may audit and verify their eligibility to participate in the program.²⁹ According to the California Public Utility Commission, studies show the cost benefits of self-verification outweigh the losses produced by occasional fraud and abuse.³⁰ If it is determined that a customer is ineligible for Lifeline, that person is removed from the program and billed for the previous Lifeline discounts that the customer should not have received.³¹

D. The Commission Should Expand the List of Default Federal Eligibility Criteria Programs

To further increase potential membership in Lifeline, the Commission should find other ways to broaden the pool of eligible customers. We agree with the Joint Board's recommendation to add the Temporary Assistance to Needy Families program and the National School Lunch program to the list of qualifying public assistance programs.³² However, the addition of more public assistance programs helps the Commission's achieve its "goal of wide Lifeline participation by low-income consumers."³³ The Commission, therefore, should also add Head Start to the federal program eligibility criteria.

The inclusion of this program permits even more variety in the number of programs that capture low-income consumers for Lifeline services. Many low-income families participating in

Connecting Rural America. See CRA, State by State Lifeline and Link-Up Initiatives (2000) available at <http://www.civilrightsforum.org/cra/llandlusbys.html#fl> ("CRA Study").

²⁸ California Public Utilities Commission Comments at 7.

²⁹ California Public Utilities Commission, *Procedures for Administration of the Moore Universal Service Act*, General Order 153, 7 (rev. Feb. 21, 2002).

³⁰ California Public Utilities Commission Comments at 7.

³¹ *Id.*

³² Currently, eligibility for the federal Lifeline programs require participation in one or more of the following public assistance programs: Medicaid, Food Stamps, Supplemental Security Income, Federal Public Housing Assistance (Section 8), and the Low Income Home Energy Assistance Program.

³³ First Report and Order at 8774.

Head Start for the educational benefits to their children may not take part in other public assistance programs. Program participants in Head Start are families in need of assistance with very young children—a niche demographic that may not be covered by other programs that satisfy Lifeline eligibility.

Furthermore, under the Commission’s current rules, Head Start is within the list of qualifying programs for Lifeline and Link-Up on tribal lands.³⁴

E. The Commission Should Adopt the Joint Board’s Recommendation to Encourage Automatic Enrollment

While the Commission should expand its eligibility criteria, it should also ensure that enrollment procedures are not an impediment to obtaining Lifeline service. USCCB *et al.* support the Joint Board’s recommendation that the Commission encourage states to adopt automatic enrollment. Since eligibility is already tied to participation in certain public assistance programs, having a mechanism to automatically link this enrollment to Lifeline membership will create economic and administrative efficiencies.³⁵ This has already proven to be the case in states that have adopted the system. New York and Nevada have already seen large increases in enrollment due to automatic enrollment and several other states are considering implementing the program.³⁶

We agree with the Joint Board that concerns of privacy and the initial cost and burden of implementing an automatic enrollment system can be addressed by using other states’ programs as a model.³⁷

³⁴ The Commission, however, only uses participants qualifying under Head Start’s income-based eligibility provision. Twelfth Report and Order, 15 FCC Rcd 12208, 12245 (2000).

³⁵ See USCCB *et al.* Comments at 15-17.

³⁶ *Id.*

³⁷ Recommended Decision at 20.

II. THE COMMISSION SHOULD REQUIRE MINIMUM OUTREACH REQUIREMENTS TO INCREASE PARTICIPATION IN LIFELINE

The Joint Board agreed with commenters that more vigorous outreach efforts are necessary to improve Lifeline subscribership.³⁸ The Joint Board, however, recommended that the Commission adopt only non-mandatory guidelines for states to follow in carrying out their Lifeline outreach programs, noting that specific outreach procedures could not be adapted to each state's needs.

While USCCB *et al.* appreciates the need for state-specific outreach measures, the Commission should adopt a rule that insures that all states effectively inform low-income residents of the availability of Lifeline assistance. Currently, many states fail to publicize Lifeline and Link-Up “in a manner reasonably designed to reach those most likely to qualify for support.”³⁹ A study conducted by Connecting Rural America (“CRA”) found that states that make more of an effort to promote Lifeline and Link-Up have a greater number of participants proportional to the number living below the federal poverty guidelines in the state.⁴⁰

The Commission, therefore, should adopt flexible state guidelines with mandatory minimum outreach measures. In previous comments, USCCB *et al.* proposed an outreach program that: 1) informs customers of Lifeline/Link-Up when phone service information is requested from a carrier; 2) notifies all other customers of Lifeline at least once a year; 3) provides at least two outreach measures from a menu of specific activities designed to inform

³⁸ Recommended Decision at 24.

³⁹ 47 C.F.R. §§ 54.405(b), 54.411(d) (2000).

⁴⁰ CRA Study. Delaware, a state that had no incentive programs listed, had the worst low-income enrollment—there was one Lifeline customer for every 130 residents under the federal poverty guidelines. California, on the other hand, had five programs to increase telephone penetration, one specifically targeting support to low-income households and had a Lifeline marketing board. CRA found that there was a Lifeline consumer for every 1.5 residents under the federal poverty guidelines. *Id.*

low income residents without telephone service of Lifeline/Link-Up assistance; and 4) requires carriers to report annually on their outreach efforts.⁴¹ A menu of this type allows the states to adopt specific outreach programs while annual reports provide a way to evaluate the requirements and modify them if necessary.

Requiring sufficient Lifeline outreach to low-income individuals is important in raising subscribership.⁴² While states would be free to implement their own Lifeline outreach programs, minimum mandatory requirements would ensure that all states were sufficiently informing low-income individuals about the Lifeline program.

III. THE COMMISSION SHOULD ENCOURAGE STATES TO ADOPT RULES THAT REQUIRE CARRIERS TO OFFER LIFELINE TO CUSTOMERS WITH PAST-DUE BALANCES

While encouraging new members to join is important in expanding new Lifeline subscribership, the Commission should insure that the large number of customers who have lost telephone service have opportunities to be reconnected. We agree, therefore, with the Joint Board that the Commission should encourage states to implement rules that require carriers to offer Lifeline services to customers with past-due balances, providing they commit to paying the balance of their basic local service. Nonpayment of phone bills is the most common reason for telephone disconnection of Lifeline customers.⁴³ Having a mechanism in place to help low-

⁴¹ USCCB *et al.* Comments at 20.

⁴² *Id.* at 21-23.

⁴³ Data provided by BellSouth in Florida found that 58% of all Lifeline disconnects were for nonpayment of telephone bills. Florida Public Service Commission, *Notice of Proposed Agency Action Granting Joint Petition for Expansion of Lifeline Program*, Order No. PSC-99-2503-PAA-TL (issued Dec. 21, 1999).

income households with outstanding bills regain telephone service will address the largest problem associated with decline in Lifeline enrollment.⁴⁴

The Commission has long been concerned about the impact that nonpayment of telephone charges has on subscribership. In the *First Report and Order*, the Commission prohibited carriers from disconnecting local service for non-payment of charges incurred by toll charges, stating it was persuaded by the “studies indicating that disconnection for non-payment of toll charges is a significant cause of low subscribership among low-income consumers.”⁴⁵ The Fifth Circuit, however, determined that the Commission did not have the jurisdictional authority to impose the no-disconnect plan because it implicated an intrastate telecommunications activity reserved to the states. As a result, there is no nationwide protection against losing phone service for Lifeline telephone customers who cannot afford to pay their long-distance charges.⁴⁶

Unlike the no-disconnect rule, states are merely encouraged to require carriers to provide service to those with past-due balances. Since the decision to implement such a program is left to the states, it does not implicate the Fifth Circuit’s federal jurisdictional prohibition.

The Joint Board uses the program in Florida as an example of state that has a successful program requiring carriers to reconnect certain customers with past-due balances.⁴⁷ In that state, the past-due program works in conjunction with the state’s “no disconnect” policy. A Lifeline customer's basic local service will not be disconnected for nonpayment of unpaid toll charges or ancillary services charges, but can be disconnected for nonpayment of basic local service

⁴⁴ The second most common reason for disconnection was customers moving out of the region, at 8.3%. *Id.*

⁴⁵ *Federal-State Joint Board on Universal Service*, Order, 12 FCC Rcd 8776, ¶ 28 (1997).

⁴⁶ Moreover, most people without phone service do not know about toll blocking and other programs for low-income consumers. *Affordability of Telephone Service Study* at 26.

⁴⁷ Recommended Decision at ¶59.

charges.⁴⁸ If a Lifeline customer is disconnected due to an outstanding local service charge, the request for reconnection will be granted if the customer either pays or makes arrangements to pay the balance. Although the Lifeline customer does not have to pay all outstanding long distances charges to receive basic local service, the carrier can require toll blocking and require payment of unpaid toll charges and an adequate deposit before allowing long-distance calls to be made again.

The successful Florida model can be adapted to allow past-due Lifeline customers to regain service. The Commission could recommend that states require carriers to enroll all Lifeline-eligible customers, regardless of outstanding balances for toll or ancillary charges. If a Lifeline candidate has outstanding local service charges, the customer must make arrangements with the local telephone carrier to pay off past charges before getting local service. Although carriers cannot deny Lifeline candidates local phone service for outstanding balances on long-distance or ancillary services, toll blocking can be required.

This type of program would assist the large number of low-income households that cannot obtain Lifeline phone service due to outstanding charges, charges that are sometimes not the fault of the person who owns the phone.⁴⁹

CONCLUSION

For the foregoing reasons, USCCB *et al.* respectfully urge the Commission to expand Lifeline eligibility to include an income-based criterion set at 150% of the FPG with self-certification of eligibility. Further, Head Start should be added to the list of programs that satisfy Lifeline eligibility. Also, the Commission should encourage the adoption of automatic

⁴⁸ Florida Public Service Commission Comments at 4.

⁴⁹ Calling card fraud, third parties using the telephone, 900 numbers, and other scams often result in unintentionally high monthly phone bills. *See, e.g.,* Karin Schill, *Dial-a-deal*, News and Observer (Raleigh, N.C.), Jan. 31, 1999.

enrollment, implement mandatory state outreach guidelines, and encourage states to adopt rules requiring carriers to offer Lifeline services to customers disconnected due to past-due toll charges.

Respectfully Submitted,

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